

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

CHRISTOPHER LACCINOLE,

Plaintiff,

v.

ADT LLC d/b/a ADT SECURITY
SERVICES,

Defendant.

Case No.: _____

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1441 and 1446, and LR Cv 81, Defendant ADT LLC d/b/a ADT Security Services (“ADT”) files this Notice of Removal to remove the above-captioned civil action now pending in the Superior Court of Rhode Island, Washington County, to this Court. In support of this Notice of Removal, ADT states:

1. Plaintiff Christopher Laccinole filed this action in Washington County Superior Court, captioned as *Christopher Laccinole v. ADT LLC d/b/a ADT Security Systems*, Case No. WC20180369, on July 19, 2018 (hereinafter, the “Action”).
2. ADT was served with the Complaint and Summons in the Action on July 31, 2018.
3. This Notice of Removal is timely filed under 28 U.S.C. § 1446(b), as it is filed within thirty days of ADT’s receipt of the initial pleading purporting to set forth the claims for relief on which this Action is based.
4. ADT is filing herewith a copy of the state court filings, including copies of all process, pleadings, orders and other documents with which it has been served, attached collectively as Exhibit “A” hereto.

5. Pursuant to 28 U.S.C. §§ 120, 1441(a) and 1446(a), this Notice of Removal is being filed in the United States District Court for the District of Rhode Island, which is the Federal District Court embracing the state court where the Action was filed.

6. This Notice of Removal is signed by counsel for ADT pursuant to Fed. R. Civ. P. 11.

7. Pursuant to 28 U.S.C. § 1446(d), ADT is filing a Notice of Filing of Notice of Removal with the clerk of the Washington County Superior Court, attached as Exhibit "B" hereto. In addition, pursuant to the Rhode Island Superior Court Electronic Filing System Guidelines, Guideline 10.1, "when a party files a notice of removal with the United States District Court for the District of Rhode Island (USDC-RI) regarding a Superior Court case, the USDC-RI shall send by email a copy of the Notice of Removal to the Superior Court to be docketed in the CMS." ADT will promptly serve the same upon Plaintiff.

8. Certified copies of the entries in the Rhode Island Superior Court Docket will be filed pursuant to LR Cv 81. Pursuant to Guideline 10.2 of the Rhode Island Superior Court Electronic Filing System Guidelines, the "Superior Court shall send by email to the USDC-RI in the following order in a PDF file: (A) Clerk Certificate; (B) Docket Sheet; and (C) Documents – The documents filed in the case comprising the court record . . ."

9. No previous Notice of Removal has been filed in or made to this Court for the relief sought herein.

10. ADT reserves all defenses including, without limitation, affirmative defenses set forth in Fed. R. Civ. P. 12.

11. ADT reserves the right to amend or supplement this Notice of Removal.

12. Should Plaintiff seek to remand this case to state court, ADT respectfully asks that

it be permitted to brief and argue the issue of this removal prior to any order remanding this case. In the event the Court decides that remand is proper, ADT asks that the Court retain jurisdiction and allow ADT to file a motion asking this Court to certify any remand order for interlocutory review by the U.S. Court of Appeals for the First Circuit, pursuant to 28 U.S.C. § 1292(b).

Federal Question Jurisdiction

13. Plaintiff's Complaint expressly asserts two federal statutory claims (Counts I and II) arising under the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227, and seeks damages and other remedies that arise under that law. *See Exhibit A, Compl.* ¶¶ 30–37. Additionally, Plaintiff asserts a state statutory claim (Count III) under Rhode Island's Deceptive Trade Practices Act ("RI DTPA"), R.I. Gen. Laws § 6-13.1-1, *et seq.*, which is largely predicated upon ADT's alleged violation of the TCPA. *See Exhibit A, Compl.* ¶¶ 38–43.

14. This Court has original jurisdiction over this civil action pursuant to 28 U.S.C. § 1331, because Plaintiff's TCPA claims arise under the laws of the United States. Thus, removal of Plaintiff's TCPA claims is appropriate under 28 U.S.C. § 1441(a).

15. The RI DTPA claim contained in the Complaint is also appropriate for removal pursuant to the doctrine of supplemental jurisdiction under 28 U.S.C. § 1337(a), as provided for by 28 U.S.C. § 1441(c).

16. Accordingly, ADT is entitled to remove this Action under 28 U.S.C. § 1441.

Conclusion

WHEREFORE, ADT respectfully requests that the above-described action pending against it be removed to this Court. ADT also requests all other relief, at law or in equity, to which it is justly entitled.

Dated: August 30, 2018

Respectfully submitted,

/s/ Robert C. Shindell

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Attorneys for Defendant ADT LLC

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of August, 2018, I have electronically filed a copy of the foregoing Notice of Removal with the Clerk of Court using the CM/ECF system, which automatically sends an electronic notification to all counsel of record and other CM/ECF participants duly registered to receive service of filings in this case. A copy also has been served via first-class mail on:

Christopher Laccinole
17 Richard Smith Road
Narragansett, RI 02882

/s/ Robert C. Shindell
Robert C. Shindell

An Attorney for Defendant ADT LLC